APPENDIX D

AO 440 (Rev. 10/93) Summons in 8 Civil Action

United States District Court

CENTRAL DISTRICT DISTRICT OF CALIFORNIA

COMPUTER MOTION, INC., a Delaware corporation

Plaintiff.

SUMMONS IN A CIVIL ACTION

CASE NUMBER: 2100-4988 CBM (RC)

INTUITIVE SURGICAL. INC., a Delaware corporation,

V.

Defendant.

TO: memo and others of defendant)
CSC LAWYERS INCORPORATED SERVICE
2730 Gareway Oaks Drive, Suite 100
Sacramento, CA 95833

YOU ARE HEREBY SUMMONED and required to servic upon PLAINTIFF'S ATTORNEY (name and address)

Edward F. O'Connor, Esq. Jan P. Weir, Seq. STRADLING YOCCA CABLEON & MAUTH 660 Newport Center Drive, Suite 1600 Newport Beach, CA 92660

SHERRI R. CARTER

MAY 10 2000

CLERK

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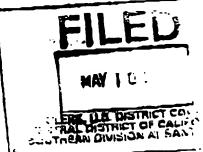
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> Attorneys for Plaintiff COMPUTER MOTION, INC.

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UNITED STATES DISTRICT COURT

CENTEAL DISTRICT OF CALIFORNIA

COMPUTER MOTION, INC., a Delaware corporation,

Plaintiff.

VB.

INTUITIVE SURGICAL, INC., a Delaware corporation.

Defendant.

CASE NO. CJ30-4928 CBM (RC)

COMPLAINT FOR PATEME IMPRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff, Computer Motion, Inc., allages as follows against Defendant, Intuitive Surgical, Inc.:

JURISDICTION AND VINUE

- This is an action for patent infringement arising under 35 U.S.C. Sections 271 and 281. This Court has original and exclusive jurisdiction over this patent infringement action pursuant to 28 U.S.C. Sections 1331 and 1338(a).
- This Court has personal jurisdiction over the 2. Defendant pursuant to Cal.Code.Clv.Proc. Section 410.10.

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information and belief Defendant. Intuitive Surgical, has continuous and substantial contacts with the State of California and has committed acts of patent infringement alleged in this complaint in this Judicial District.

3. Venue is proper in this district pursuant to 28 U.S.C. Sections 1391(b), (c), and 1400(b).

PARTIES

- herein mentioned, a Delawara corporation duly organized and extating under the laws of the State of Delaware with its principal place of business at 130-B cremona Drive. Goleta, California 93117, Within this Judicial District and is the owner of all rights, title and interest by virtue of an assignment of the following United States Patents (referred to collectively as "subject patents") which are directed to a computer assisted robotic surgical system for use in minimally invasive surgery:
 - a. United States Patent No. 5,524,180 entitled "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued on June 4. 1996. (Attached as Exhibit 1 hereto.)
 - b. United States Patent No. 5,878,193 entitled "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued on March 2, 1999. (Attached as Exhibit 2 hereto.)
 - "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE CARDIAC PROCEDURES" issued on June 9, 1998. (Attached as Exhibit 3 hereto.)
 - d. United States Fatent No. 6,001,108 entitled "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE

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CARDIAC PROCEDURES' issued on December 14, 1999. (Attached as Exhibit & hereto.)

- United States Patent No. 5,815,640 entitled "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" lasued on September 29, 1998. (Attached as Exhibit S hereto.)
- United States Parent No. 5,907,664 entitled "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued on May 25, 1999. (Arrachad as Exhibit 6 hereto.)
- United States Patent No. 5,855,583 entitled "METHOD AND APPARATUS FOR PERPORMING MINIMALLY INVASIVE CARDIAC PROCEDURES- issued on January 5, 1999. (Attached as Exhibit 7 hereco.)
- On information and belief. Intuitive Surgical is a Б. Delaware corporation duly organized and existing under the laws of the State of Delaware, having a place of business at 1340 W. Middlefield Rd., Mountain View, California 94043. Incurrive Surgical is qualified to do business in the State of California, and presently does business in the State of California and does business within this Judicial District.

COUNT 1-PATENT INFRINGENCENT

- Incuitive Surgical has made, used, offered for sale, sold and continues to make, use and offer for sale, a computer sessaced topotte antares; shake my chartage usus age Ajucra thet infringes one or more of the claims of the subject patents.
- Intuitive Surgical has and continues to actively induce infringement of the subject perents.
- Intuitive Surgical offers to sell and/or sells components constituting a material part of the invention claimed

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in the subject parents, knowing the same to be especially made or especially adapted for use in an infringement of the subject parents and not a staple article or commodity of commerce suitable for a substantial noninfringing use.

- Computer Motton has been damaged by these infringements and is entitled to an award of demages to compensate it for these infringements, rogether with interest and costs. Further, Intuitive Surgical's infringement is likely to continue if not enjoined. This continued infringement will result in additional infringing uses by purchasers of Intuitive Surgical's infringing devices. Computer Morton will be treparably injured by such further infringement from which Computer Motion will not have an adequate remedy at law. Accordingly. Insuitive Surgical should be enjoined from any further infringement of the subject patents.
 - 10. On information and belief, Intuitive Surgical has known about one or more of the subject patents and has neither requested nor received any authorization from Computer Motion to manufacture, make, use, sell or offer to sell the patented invention, but has continued to infringe the patents in willful diffiance and diaregard of Computer Motion's patent rights. Incurrive Surgical has willfully infringed one or more of the subject patents and the damages swarded to Computer Motion should be crabled pursuant to 35 U.S.C. Section 284.
 - 11. Incuitive Surgical's conduct gives rise to an exceptional case under 35 U.S.C. Section 285, and Computer Motion is therefore entitled to an award of its attorneys' food.

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WHEREPORE, Plaintiff, Computer Motion prays for the following relief:

- A preliminary and final injunction against continued infringement of the subject parents, an award of damages, enhancement of damages and an assessment of interest, costs and Computer Mation's attorneys' fees and for all other relief to which Computer Motion is entitled; and
- That Intuitive Surgical be directed to file with this B. Court and serve on Computer Motion within thirty days after the service of an injunction, a report in writing and under oath serving forth in detail the manner and form in which intuitive Surgical has complied with the injunction.

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Dated:

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Respectively submitted,

STRADLING YOCCA CARLSON & RAUTH

Jan - Hely

> Attorneys for Plaintiff COMPUTER MOTION, INC.

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pursuant to Rule 38 Fed.R.CIV.Proc., Plaintiff Computer Motion, hereby demands a trial by jury.

, 2000

Respectively submitted.

STRADLING YOCCA CARLSON & RAUTH

Peward F. G Connor

Attorneys for Plaintiff COMPUTER MOTION, INC.

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